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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 126 OF 2007

Rajkumar Kishanlal Awasthi ..Petitioner

versus

S. Shinde & Anr. ..Respondents

Ms. A. Aiyer i/b. Mr. O. K. Shaikh for the
Petitioner.

Mr. B. H. Mehta, AGP for the Respondents - State.

**CORAM : S. A. BOBDE, J.
DATE : 31ST OCTOBER, 2007.**

P.C.

. By this petition the petitioner who is an accused in C.R. No. 571 of 2005 under Sections 384 and 385 of the I.P.C. for having demanded ransom has made a grievance to this court for non-compliance of the Order of the learned Metropolitan Magistrate, 32nd Court, Bandra (East), Mumbai. In the course of prosecution, the petitioner - accused made a grievance that he has been pressurised by two workers Jitu and Yusuf at the instance of some builder. The Metropolitan Magistrate, 32nd Court, Bandra, therefore directed

that the DCP of the area shall make investigation on their supervision and direction. This order was passed while remanding the accused. Apparently on the next date on 21.10.2005, the learned Metropolitan Magistrate noted in that order that investigation was not made and in the circumstances extended the remand.

2. It is the petitioner's case that no investigation as directed by the Metropolitan Magistrate has been made by the Respondent Nos. 1 and 2 and therefore they are guilty of wilful disobedience of the Order of the Metropolitan Magistrate. Mr. Mehta, learned AGP submitted that the investigation has in fact been made, however, the result of the investigation did not result in the framing of a charge.

3. What is important in this case is to see whether the investigation was made as directed by the Metropolitan Magistrate and the result thereof was communicated to the learned Magistrate. It was the intention of the learned Magistrate to enquire whether there was any substance in the allegation of the accused that he has been pressurised. Mr.

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Mehta, learned AGP pointed out that there is a compliance of the order of the Magistrate. In fact, by the application dated 26.10.2005 made by the Respondents for remand to judicial custody, the respondents have made a categorical statement as follows:

"In so far investigation with respect to complaint of accused to frame him in the offence by Jitu and Yusuf of Diwan Builder, it has been observed that they neither know accused nor to complainant. Accordingly, there is no complaints registered against each other in Vakola as well as in nearby police stations."

Therefore as a result of the above a formal report and charge sheet has not been filed.

4. The learned counsel for the petitioner however submitted that this investigation is not in accordance with the law and the respondents have not complied with all the procedural requirements as required by Sections 173 and 156(3) of the Cr.P.C. There may or may not be any substance in the contention about the compliance of procedural formalities; the legality and validity of the procedure adopted by the prosecution is not the subject matter of this contempt petition. However,

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it seems clear that the respondents have not committed any wilful disobedience of the order of the Metropolitan Magistrate. The learned Metropolitan Magistrate had directed an investigation into the petitioner's complaint that he is being pressurised by the workers of some builder. That investigation appears to have been made and in fact results have also been brought to the notice of the court, which directed the investigation.

5. In the circumstances, there is no merit in the Contempt Petition, which is hereby dismissed.

(S.A. BOBDE, J.)